

2009 JAN 30 PM 1:57

MARVE BRADLEY  
CLERK OF CIRCUIT COURT

BY \_\_\_\_\_

IN THE CIRCUIT COURT OF BUCHANAN COUNTY, MISSOURI  
(DIVISION NO. 2)

GINA L. LOGAN  
317 South 12<sup>th</sup> Street  
St. Joseph, MO

Plaintiff,  
v.

TRIUMPH FOODS, LLC  
Serve the Registered Agent:  
THE CORPORATION COMPANY  
120 South Central Avenue  
Clayton, Missouri 63105

Defendant.

Case No. 09 BUCU00511

JURY TRIAL DEMAND

STATUS REVIEW HEARING  
SET FOR: April 30, 2009  
AT 8:30 am  
DIV. NO. 2

**PETITION FOR DAMAGES**

**VIOLATIONS OF MISSOURI HUMAN RIGHTS ACT**

**VIOLATIONS OF FAMILY MEDICAL LEAVE ACT**

COMES NOW Gina L. Logan ("plaintiff"), by and through her attorney of record, and for her petition for damages against Triumph Foods, LLC ("defendant"), alleges and states as follows:

**INTRODUCTION**

1. Plaintiff was subjected to unlawful discrimination and retaliation.
2. Plaintiff seeks damages against defendant pursuant to the Missouri Human Rights Act ("MHRA") and or the Family and Medical Leave Act, 29 U.S.C. Section 2601, seq., ("FMLA").

**PARTIES**

3. Plaintiff is a Black female resident and citizen of the State of Missouri.
4. Defendant exists and is organized under the laws of the State of Missouri.

5. Defendant is an employer within the meaning of the MHRA and the FMLA.

#### **JURISDICTION AND VENUE**

6. All alleged acts of discrimination and wrongdoing occurred in St. Joseph, Buchanan County, Missouri making this Court an appropriate forum.

#### **FACTUAL BACKGROUND**

7. Plaintiff was employed by defendant for approximately 2 years and 8 months, from on or about December 21, 2005 until termination on or about August 20, 2008. Plaintiff first worked on the Ham Line. Plaintiff was working in the Box Shop at the time of her termination.

8. Steve Hull ("Hull"), a white male, was a supervisor of plaintiff.

9. Robert Larsen ("Larsen"), a white male, worked with plaintiff in the Box Shop.

10. Linden (last name unknown) ("Linden"), a white or Latino female, worked with plaintiff in the Box Shop.

11. Filbert (first name not known) ("Filbert"), a white male, worked with plaintiff on the Ham Line.

12. Charlene Furgeson ("Furgeson"), a white female, was a manager working in defendant's human resources department.

13. During her employment with defendant, plaintiff was subjected to numerous and continuous acts of racial discrimination and or harassment.

14. Within the first few weeks of employment, plaintiff was advised that a co worker on the Ham Line, Filbert, was making racially derogatory remarks regarding plaintiff including stating that "his people owned slaves back in slave times and he would beat Gina (plaintiff) if it was like back then".

15. Plaintiff promptly complained to Furgeson in human resources upon learning of Filbert's racist remarks.

16. Defendant failed to take appropriate action in response to plaintiff's complaint of Furgeson's racist remarks.

17. On or about October 9, 2007 while working in the Box Shop, Linden stated to plaintiff that "I (Linden) will not help or work with a black person."

18. Plaintiff promptly complained to her immediate supervisor, Hull, upon Linden making her (Linden's) racist remarks to plaintiff.

19. Defendant failed to take appropriate action in response to plaintiff's complaint of Linden's racist remarks.

20. During the course of her employment, plaintiff learned that certain non black employees with less seniority, doing the same or less demanding jobs were being paid more than she was being paid.

21. Plaintiff repeatedly complained to her supervisor Hull that she believed her being paid less than the non black employees was discrimination due to her race.

22. Defendant failed to take appropriate action in response to plaintiff's complaints of pay disparity due to race.

23. On Saturday, June 7, 2008, while working with Larsen in the Box Shop, Larsen made various racial and sexual derogatory remarks that offended plaintiff. Such remarks included Larsen telling plaintiff that "the reason she (plaintiff) is so big is because slaves were bred to be big to get more work out of them and that is also why there are so many big black athletes today". Larsen also asked plaintiff if "black men went down on women?"

24. Plaintiff promptly, on Saturday June 7, 2008, complained to her supervisor Hull about Larsen's offensive racial and sexual remarks.

25. On Friday, June 13, 2008, plaintiff entered Heartland Health Hospital for stress related emotional and physical health care and treatment.

26. Plaintiff took a nine (9) week FMLA leave from work beginning on Monday, June 16, 2008 and ending on or about Monday, August 18, 2008.

27. On or about August 20, 2008 plaintiff's supervisor, Hull, told her she was being terminated because of either threats or aggressive behavior.

28. As a result of her termination, plaintiff lost wages, employment associated benefits and other actual losses.

#### **CONDITION PRECEDENT**

29. Thereafter, plaintiff filed a timely Charge of Discrimination with the Missouri Commission on Human Rights. A copy of the charge is attached hereto as Exhibit A and is incorporated herein by reference.

30. Plaintiff received her right-to-sue notice pursuant to the Missouri Human Rights Act. A copy of the right to sue notice is attached hereto as Exhibit B and incorporated herein by reference.

31. This action has been timely filed with this Court, and plaintiff has met all conditions precedent to filing this action.

#### **COUNT I MHRA- Employment Discrimination**

COMES NOW plaintiff and for Count I of her petition against defendant, alleges

and states as follows:

32. Plaintiff incorporates by reference the allegations in the preceding paragraphs as if set forth herein.

33. Upon information and belief and based thereon, plaintiff alleges race was a contributing factor in defendant's discriminatory actions cited herein.

34. Plaintiff was subject to continuing discriminatory acts and a racially hostile work environment throughout her employment with defendant.

35. As a direct result of defendant's discriminatory actions plaintiff sustained damages including loss of income, benefits, experience and career advancement and also pain, anguish, anxiety, humiliation and distress.

36. At the time defendant discriminated against plaintiff, defendant knew such discrimination was unlawful.

37. The actions and conduct set forth herein were outrageous and showed an evil motive or reckless indifference or conscious disregard for the rights of plaintiff and others, and therefore plaintiff is entitled to punitive damages from defendant, to punish defendant and to deter defendant and others from like conduct.

38. At all times mentioned herein, before and after, the above described perpetrators were agents, servants and employees of defendant and were at all such times acting within the scope and course of their agency and employment, and/or the actions were expressly authorized by defendant and/or their actions were ratified by defendant, thus making defendant liable for said actions under the doctrine of respondeat superior.

WHEREFORE, plaintiff prays for judgment against defendant on Count I of her

petition, for a finding that she has been subjected to unlawful discrimination prohibited by V.A.M.S. § 213.010 *et seq.*; for an award of compensatory and punitive damages; for her costs expended; for her reasonable attorneys' fees; and for other and further relief the Court deems just and proper.

**COUNT II**  
**MHRA-Retaliation**

COMES NOW plaintiff and for Count II of her petition against defendant, alleges and states as follows:

39. Plaintiff incorporates by reference the allegations in the preceding paragraphs as if set forth herein.

40. Plaintiff's complaints, made in good faith, concerning the racial discrimination to which she was subjected constituted protected activity.

41. By reason of plaintiff's complaints, defendant retaliated against plaintiff.

42. Defendant's retaliation against plaintiff was intentional, willful, malicious and calculated toward plaintiff and thus such constituted willful violations of state law.

43. Defendant's retaliatory actions against plaintiff have caused her to suffer damages including loss of income, benefits, experience and career advancement and also pain, anguish, anxiety, humiliation and distress.

44. At the time defendant retaliated against plaintiff, defendant knew such retaliation was unlawful.

45. The actions and conduct set forth herein were outrageous and showed an evil motive or reckless indifference or conscious disregard for the rights of plaintiff and others, and therefore plaintiff is entitled to punitive damages from defendant, to punish

defendant and to deter defendant and others from like conduct.

46. At all times mentioned herein, before and after, the above described perpetrators were agents, servants and employees of defendant and were at all such times acting within the scope and course of their agency and employment, and/or the actions were expressly authorized by defendant and/or their actions were ratified by defendant, thus making defendant liable for said actions under the doctrine of respondeat superior.

WHEREFORE, plaintiff prays for judgment against defendant on Count II of her petition, for a finding that she has been subjected to unlawful retaliation prohibited by V.A.M.S. § 213.010 *et seq*; for an award of compensatory and punitive damages; for her costs expended; for her reasonable attorneys' fees; and for other and further relief the Court deems just and proper.

### **COUNT III VIOLATIONS OF FMLA**

COMES NOW plaintiff and for Count III of her petition against defendant, alleges and states as follows:

47. Plaintiff incorporates by reference the allegations in the preceding paragraphs as if set forth herein.

48. Defendant is a private sector employer who employs 50 or more employees for at least 20 work weeks in the current or preceding calendar year and is engaged in an activity affecting commerce.

49. Plaintiff was employed by a covered employer, the defendant.

50. Plaintiff worked for the defendant employer for at least 12 months.

51. Plaintiff had worked at least 1250 hours over the prior 12 months before her

termination.

52. Plaintiff worked at a location where at least 50 employees were employed by the employer within 75 miles.

53. Plaintiff was hospitalized as an inpatient and was suffering from a serious health condition within the meaning of the FMLA and its implementing regulations.

54. Plaintiff was entitled to take reasonable leave, not to exceed a total of (12) work weeks of leave during any twelve (12) months period, for her recovery from this serious health condition.

55. Defendant discriminated against plaintiff and interfered with her right to take reasonable leave to care for her serious health condition, and retaliated against her for exercising her rights under the Act, in violation of 29 U.S.C. §2615(a)(2) and 2615(b).

56. Plaintiff was terminated for exercising her rights under the FMLA.

WHEREFORE, plaintiff prays that the Court grant the following relief:

- A. Award the plaintiff damages against the defendant in an amount equal to any wages, salary, employment benefits, and other compensation denied or lost to plaintiff by reason of the violation of the statute;
- B. Award the plaintiff interest on the amount of any wages, salary, employment benefits and other compensation denied or lost to plaintiff by reason of the violation of the statute;
- C. Award the plaintiff an additional amount as liquidated damages equal to the sum of the amount of any wages, salary, employment benefits, and other compensation denied or lost to plaintiff and the interest on that amount;

- D. Award plaintiff such equitable relief as may be appropriate, including employment, reinstatement, and promotion;
- E. Award plaintiff the reasonable attorney's fees, reasonable expert witness fees, and other costs of the action;
- F. Award such other and further relief as the Court finds just and equitable.

DONALD F. McDONALD, Jr.  
Attorney at Law



Donald F. McDonald, Jr. #28950  
1125 Grand Blvd., Suite 1500  
Kansas City, MO 64106  
(816) 471-6444  
FAX: (816) 471-6664

**ATTORNEY FOR PLAINTIFF**

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial of the issues in this matter.

**CERTIFICATE OF NOTICE OF DISPUTE RESOLUTION SERVICES**

COMES NOW counsel for plaintiff and certifies to the Court that the plaintiff herein has been provided with notice of dispute resolution services.



Attorney for Plaintiff



## CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA  
 EEOC

846-2008-36535

## Missouri Commission On Human Rights

and EEOC

Name (Indicate Mr., Ms., Mrs.)

**Ms. Gina L. Logan**

State or local Agency, if any

Home Phone (Incl. Area Code)

(816) 279-7081

Date of Birth

02-23-1965

Street Address

City, State and ZIP Code

**317 S 12th St, Saint Joseph, MO 64501**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**TRIUMPH FOODS**

No. Employees, Members

Phone No. (Include Area Code)

**Unknown**

Street Address

City, State and ZIP Code

**5302 Stockyards Expressway, Saint Joseph, MO 64504**

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE     COLOR     SEX     RELIGION     NATIONAL ORIGIN  
 RETALIATION     AGE     DISABILITY     OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

09-18-2008

Latest

09-18-2008

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

- I. I was hired by Respondent on or about 12/21/06 and I last held a position as a Box Maker.
- II. I was subjected to an offensive racial remark by a co-worker. I complained about the remark.
- III. I was discharged.
- IV. I believe this was discrimination against me because of my race, black, and my color in violation of Title VII and retaliation against me for opposing acts made unlawful by Title VII.

RECEIVED  
EEOC  
KANSAS CITY AREA OFFICE  
09-18-08 AM 10:24

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY – When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWEORN TO BEFORE ME THIS DATE  
(month, day, year)

Date

Charging Party Signature



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
MISSOURI COMMISSION ON HUMAN RIGHTS

MATT BLUNT  
GOVERNOR

TODD SMITH  
DEPARTMENT DIRECTOR

ALVIN CARTER  
COMMISSION CHAIRPERSON

ALISA WARREN  
Executive Director

FE-10/08-08375  
Administrative UseRecords

Gina L. Logan  
317 S. 12th St.  
St. Joseph, MO 64501

NOTICE OF RIGHT TO SUE

RE: Logan vs. Triumph Foods  
FE-10/08-08375 846-2008-36535

This is your NOTICE OF RIGHT TO SUE pursuant to the Missouri Human Rights Act.

Pursuant to the Missouri Human Rights Act, your complaint was dual-filed with the Equal Employment Opportunity Commission ("EEOC") and the Missouri Commission on Human Rights ("MCHR"). The MCHR has been informed that the EEOC has completed their processing of your complaint and issued a notice of your right to sue.

Therefore, the MCHR is also issuing a notice of your right to sue based on the EEOC's processing.

This letter indicates your right to bring a civil action within 90 days of such notice against the respondent(s) named in the complaint. Such an action may be brought in any circuit court in any county in which the unlawful discriminatory practice is alleged to have occurred, either before a circuit or associate circuit judge. Upon issuance of this notice, the commission shall terminate all proceedings relating to the complaint. No person may file or reinstate a complaint with the commission after the issuance of a notice under this section relating to the same practice or act. Any action brought in court under this section shall be filed within ninety days from the date of the commission's notification letter to the individual but no later than two years after the alleged cause occurred or its reasonable discovery by the alleged injured party (emphasis added). You are hereby notified of your right to sue the respondent(s) named in your complaint in state circuit court. **THIS MUST BE DONE WITHIN 90 DAYS OF THE DATE OF THIS NOTICE OR YOUR RIGHT TO SUE IS LOST.**

You are also notified that the Executive Director is hereby administratively closing this case and terminating all MCHR proceedings relating to it. No person may file or reinstate a complaint after the issuance of notice of right to sue.

On behalf of the Commission:

Terry Old  
Information Support Coordinator  
Terry.Old@dolir.mo.gov

November 6, 2008  
Date

C: Triumph Foods  
5302 Stockyards Expressway  
St. Joseph, MO 64504



3315 W. TRUMAN BLVD.  
P.O. Box 1129  
JEFFERSON CITY, MO 65102-1129  
PHONE: 573-751-3325  
FAX: 573-751-2905

111 N. 7TH STREET, SUITE 903  
ST. LOUIS, MO 63101-2100  
PHONE: 314-340-7590  
FAX: 314-340-7288

P.O. Box 1300  
OZARK, MO 65721-1300  
FAX: 417-485-6024

1410 GENESSEE, SUITE 260  
KANSAS CITY, MO 64102  
FAX: 816-889-3582

106 ARTHUR STREET  
SUITE D  
SIKESTON, MO 63801-5454  
FAX: 573-472-5321

Relay Missouri: 1-800-735-2966 (TDD) 1-800-735-2466 (Voice)



**Service of Process  
Transmittal**

02/10/2009  
CT Log Number 514423796



**TO:** Jim Pryde, Esq  
Bryan Cave LLP  
One Kansas City Place, 1200 Main Street, Suite 3500  
Kansas City, MO 64105-2152

**RE:** **Process Served in Missouri**

**FOR:** Triumph Foods, LLC (Domestic State: MO)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Gina L. Logan, Pltf. vs. Triumph Foods, LLC, Dft.

**DOCUMENT(S) SERVED:** Summons, Petition, Exhibits

**COURT/AGENCY:** 5th Judicial Circuit Court, Buchanan County, MO  
Case # 09BUCV00511

**NATURE OF ACTION:** Employee Litigation - Whistle Blower's Act - Discrimination and retaliation

**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Clayton, MO

**DATE AND HOUR OF SERVICE:** By Process Server on 02/10/2009 at 10:40

**APPEARANCE OR ANSWER DUE:** Within 30 days after service, exclusive of date of service - Petition // 4/30/09 at 8:30 a.m. - Status Review Hearing

**ATTORNEY(S) / SENDER(S):** Donald F. McDonald Jr  
Attorney at Law  
Suite 1500  
1125 Grand Blvd  
Kansas City, MO 64106  
816-471-6444

**ACTION ITEMS:** SOP Papers with Transmittal, via Fed Ex 2 Day , 798083939168

**SIGNED:** C T Corporation System  
**PER:** Meghan Saffell  
**ADDRESS:** 120 South Central Avenue  
Suite 400  
Clayton, MO 63105  
**TELEPHONE:** 314-863-5545

Page 1 of 1 / BL

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.